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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,595	08/01/2003	Ernest Henry Tong	202-0958	1594

32242 7590 01/28/2005  
DYKEMA GOSSETT PLLC  
2723 SOUTH STATE STREET  
SUITE 400  
ANN ARBOR, MI 48104

EXAMINER

JOYCE, HAROLD

ART UNIT PAPER NUMBER

3749

DATE MAILED: 01/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/604,595

Applicant(s)

TONG, ERNEST HENRY

Examiner

Harold Joyce

Art Unit

3749

-- Th MAILING DATE of this communication app ars on th cov r sh et with the correspond nce address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 7-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Milojevic et al. or the United Kingdom patent in view of Tong et al. ('264). Milojevic et al. or the United Kingdom patent discloses the claimed invention except for an airflow detector. Note, Milojevic et al. states at column 6, lines 33-39:

At the end of duct 6, the fresh-air volume respectively flowing in can then be accurately determined by the measuring means, and flap 5 can be adjusted in each aperture 4 by a suitable drive, such as an electric motor, such that a predetermined value is exactly maintained for the inflowing air volume.

Or the United Kingdom patent states at page 2, line 36-41:

The upper and lower parts communicate through flow-controlling air distributor inlets 24, 25 and 26 in order to get the desired pressures in the lower parts 6A, 6B and the desired air flows from the parts 6A and 6B into the enclosure 3.

Tong et al. ('264) teaches that it is known to provide a paint booth with an flow velocity sensor as set forth at column 5, lines 5-11. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the paint booth of Milojevic et al. or the United Kingdom patent with an airflow detector, as taught by Tong et al. in order to control cross flow especially since Milojevic et al. or the United King-

Art Unit: 3749

dom patent deals with inflowing air volume or pressures for air flow determination which is a direct function of an airflow detector.

3. Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Milojevic et al. or the United Kingdom patent in view of Tong et al. ('264) as applied to claim 1 above, and further in view of Tong et al. ('421). Further, Milojevic et al. or the United Kingdom patent discloses the claimed invention except for the variable density filter media. Tong et al. ('421) teaches that it is known to provide a paint booth with variable density filter media as set forth at column 4, lines 13-17. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the paint booth of Milojevic et al. or the United Kingdom patent with variable density filter media, as taught by in order to promote uniform flow.

***Allowable Subject Matter***

4. Claim 11 is allowed.

***Response to Arguments***

5. Applicant's arguments filed December 17, 2004 have been fully considered but they are not persuasive. Applicant states that the Milojevic et al. and the United Kingdom patent both discloses systems in which fresh air supplied from a common source is segregated to separate compartments located above different portions of a paint booth. Both Milojevic and the United Kingdom patent deals with techniques of varying the distribution of higher-pressure air supplied from a common source to separate compartments thus permitting variable velocity of airflow within different portion of a paint booth. However, even though this may or may not be true, it is irrelevant since both Milojevic

and the United Kingdom patent read on the *claimed* limitations of the claims wherein, as it relates to the United Kingdom patent, the primary plenum is considered to be lower parts 6A, upper parts 6A' and 6B'; the secondary plenum is considered to be the lower part 6B. It is noted that "adapted to ..." clauses are used throughout the claims. However, it is well settled that features in an apparatus claim must be distinguished from the prior art in terms of structure rather than function. In this case, the "adapted to ..." clauses does not serve to limit the claims to a specific structure. Note, similar arguments are applied to Milojevic as well.

6. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies on as disclosed in detail on pages 8-11 are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Note also, even though it has not been argued as it relates to the secondary plenum having an outlet above the paint spray applicator and the workpiece. Both Milojevic et al. and the United Kingdom patent discloses the plenum located above both claimed devices.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

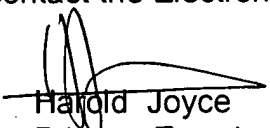
Art Unit: 3749

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harold Joyce whose telephone number is (571)272-4876. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on (571)272-4877. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Harold Joyce  
Primary Examiner  
Art Unit 3749